

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY OTTAWA

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E.O. 11652: N/A

TAGS: ETEL, CA

SUBJECT: TV COMMERCIAL DELETION

1. CHARLES GOODELL AND SANDY LANKLER, WASHINGTON ATTORNEYS WHO ARE SERVING AS SPOKESMEN FOR US BORDER TELEVISION STATIONS IN THE SUBJECT DISPUTE, CALLED ON DEPUTY ASSISTANT SECRETARY VINE FEBRUARY 25 TO DISCUSS THE PROPOSAL THEY INTEND TO PUT FORWARD TO THE CRTC. ESSENTIALLY, PROPOSAL CONSISTS OF (A) CREATION OF TAXABLE ENTITIES IN CANADA THROUGH WHICH THAT PORTION OF THE STATION'S INCOME ATTRIBUTABLE TO CANADA WOULD PASS. THIS WOULD HAVE THE EFFECT OF SHIFTING PART OF THE STATION'S TAX LIABILITY FROM THE US TO CANADA. IN CALCULATING HOW THIS WOULD BE DONE, THE STATIONS HAVE BEEN GUIDED BY A US TAX COURT PRECEDENT INVOLVING THE ALLOCATION FOR TAX PURPOSES OF REVENUES EARNED BY A WINDSOR RADIO STATION IN BOTH DETROIT AND WINDSOR. IN ESSENCE RULING DIVIDES TAXABLE REVENUE ON PROPORTIONAL BASIS, BASED ON PERCENTAGE OF EARNINGS IN EACH

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COUNTRY. IT IS NOT CLEAR HOW MUCH MONEY THE GOC COULD

EXPECT TO REALIZE FROM THIS ARRANGEMENT BUT GOODELL ASSURED US THAT HE WOULD HAVE DETAILED FIGURES FOR PRESENTATION TO THE CRTC. (B) THE SECOND PART OF THE PROPOSAL INVOLVES WILLINGNESS ON THE PART OF THE STATIONS TO CONTRIBUTE UP TO

25 PERCENT OF THEIR NET EARNINGS INTO A FUND FOR THE DEVELOPMENT OF THE CANADIAN TV PRODUCTION INDUSTRY. (FOR US TAX PURPOSES, THIS PAYMENT WOULD HAVE TO BE "REQUIRED" BY THE CANADIAN GOVERNMENT.) GOODELL AND LANKLER MADE IT CLEAR, HOWEVER, THAT IN EXCHANGE FOR THIS TWO-PART OFFER THEY WOULD INSIST UPON BOTH AN END TO THE COMMERCIAL DELETION POLICY AND NON-IMPLEMENTATION OF THAT PORTION OF BILL C-58 WHICH APPLIES TO TELEVISION ADVERTISING. IF THE GOC IS UNWILLING TO CONSIDER MODIFYING C-58, THE STATIONS WILL WITHDRAW THEIR OFFER TO CONTRIBUTE TO AN INDUSTRY DEVELOPMENT FUND.

2. VINE ASKED GOODELL TO PROVIDE US WITH A COPY OF THE STATIONS' PROPOSAL WHEN IT IS AVAILABLE IN FINAL FORM SO THAT WE CAN TRANSMIT IT INFORMALLY TO THE DEPARTMENT OF EXTERNAL AFFAIRS VIA EMBASSY OTTAWA. VINE EMPHASIZED THAT WHILE WE SEE NO PARTICULAR DIFFICULTY WITH THE PROPOSAL, IT IS IMPORTANT THAT THE CANADIANS UNDERSTAND THAT THE USG IS NOT ESPOUSING OR EVEN NECESSARILY SUBSCRIBING TO THIS PARTICULAR SOLUTION AT THIS TIME. IN THIS WAY THE USG WILL BE ABLE TO RETAIN FLEXIBILITY WHICH MAY BE VERY USEFUL AT A LATER STAGE IN THE NEGOTIATIONS. GOODELL AND LANKLER UNDERSTOOD THIS POINT.

3. GOODELL SAID THE DELEGATION GOING TO OTTAWA TO PRESENT THE PROPOSAL TO THE CRTC WOULD INCLUDE, INTER ALIA, FORMER FCC CHAIRMAN DEAN BURCH, CAPITAL CITIES PRESIDENT TOM MURPHY, GOODELL AND LANKLER. HE WONDERED HOW THE PRESENTATION OF THIS PROPOSAL SHOULD BE TREATED FOR PUBLIC CONSUMPTION. HE AND LANKLER FLOATED THE IDEA OF A PRESS CONFERENCE IN OTTAWA IN WHICH THEY WOULD DECLARE "DEFEAT" AND ANNOUNCE THEIR WILLINGNESS TO COOPERATE WITH THE CRTC TO ACHIEVE ITS POLICY OBJECTIVES, BUT AFTER SOME DISCUSSION THEY CONCLUDED THAT THIS WAS PROBABLY GOING TOO FAR, AT LEAST AS AN INITIAL STEP. THEY HAVE APPARENTLY DECIDED LIMITED OFFICIAL USE

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INSTEAD TO SETTLE FOR INFORMING THE PRESS THAT THEY ARE IN OTTAWA, THAT THEY HAVE PRESENTED A PROPOSAL TO THE CRTC PURSUANT TO THE AGREEMENT REACHED AT THE INTER-GOVERNMENTAL MEETING IN JANUARY, AND THAT THEY HOPE IT WILL LEAD TO A MUTUALLY SATISFACTORY SOLUTION OF THE PROBLEM.

4. GOODELL TELEPHONED MARCH 1 TO SAY THAT HE HAD CALLED CRTC EXECUTIVE DIRECTOR MICHAEL SHOEMAKER TO ARRANGE AN

APPOINTMENT. AFTER CHECKING WITH CRTC CHAIRMAN BOYLE, SHOEMAKER CALLED BACK TO SAY THAT THE PRESENTATION SHOULD BE MADE TO A GROUP WHICH WOULD INCLUDE BOTH COMMISSIONERS AND THE CRTC STAFF, AND THAT IT SHOULD TAKE PLACE DURING THE WEEK OF MARCH 15. IN THE ONLY SUBSTANTIVE ASPECT OF

THE CONVERSATION, SHOEMAKER ASKED GOODELL FOR THE USG'S REACTION TO THE STATIONS' PROPOSAL. SPECIFICALLY, HE SOUGHT ASSURANCES THAT THE USG WOULD NOT UNDERCUT THE PROPOSED SOLUTION. GOODELL ASSURED HIM THAT WHILE THE STATE DEPARTMENT HAS NOT ENDORSED THE PROPOSAL, IT WOULD NOT UNDERCUT IT EITHER.

5. IT IS OUR INTENTION, AFTER THE GOC HAS HAD TWO OR THREE WEEKS TO CONSIDER THE STATIONS' PROPOSAL, TO CALL FOR A SECOND INTER-GOVERNMENTAL MEETING IN WASHINGTON TO HEAR THE CANADIANS' REACTION. KISSINGER

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